

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

2014 SE. 23 P 1:33
FILED
U.S. DISTRICT COURT
SAN FRANCISCO, CALIF.

UNITED STATES OF AMERICA,

v.

CR 14 493

MICHAEL Q. MAI

WHA

DEFENDANT(S).

INDICTMENT

VIOLATIONS:

18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud and Wire Fraud;
18 U.S.C. §§ 1957 and 2 – Engaging in Monetary Transactions in Property Derived
from Specified Unlawful Activity and Aiding and Abetting;
18 U.S.C. § 981(a)(1)(C),
18 U.S.C. § 982(a)(1) & 28 U.S.C. § 2461(c) – Criminal Forfeiture

A true bill.

TH

Foreman

Filed in open court this 23rd day of

September 2014

KAREN L. POMA

Karen L. Poma

JOSEPH C. SPERO

Clerk

UNITED STATES MAGISTRATE JUDGE

Bail, \$ Summons for 10/14/2014
at 9:30 AM before
Judge Laporte.

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 Count 1: 18 U.S.C. § 1349 -- Conspiracy to Commit Mail Fraud and Wire Fraud ☐ Petty
 Count 2: 18 U.S.C. § 1957 -- Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity ☐ Minor
 Forfeiture allegation ☐ Misdemeanor
☒ Felony

PENALTY: Count 1: 20 yrs imprisonment, \$250K fine or twice gross gain or gross loss, whichever is greater, 3 yrs supervised release, \$100 special assessment, rest., for.; Count 2: 10 years' imprisonment, \$250K fine or twice amt of property involved in transaction, 3 yrs supervised release, \$100 special assessment, rest., for.

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

DEFENDANT - U.S.

MICHAEL Q. MAI

DISTRICT COURT NUMBER

CR 14 493
 SEP 23 2014
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE

SHOW DOCKET NO.

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

Kyle Waldinger/Hallie Hoffman

DEFENDANT**IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

 1) ☐ If not detained give date any prior summons was served on above charges
2) ☐ Is a Fugitive3) ☐ Is on Bail or Release from (show District)**IS IN CUSTODY**4) ☐ On this charge5) ☐ On another conviction
☐ Federal ☐ State
6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

 Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☒ SUMMONS ☐ NO PROCESS* ☐ WARRANT

Bail Amount: _____

If Summons, complete following:

☒ Arraignment ☒ Initial Appearance

Defendant Address:

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: Oct. 14, 2014, 9:30am Before Judge: Elizabeth D. Laporte

Comments:

MELINDA HAAG (CABN 132612)
United States Attorney

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JUL 23 2014
U.S. DISTRICT COURT
SAN FRANCISCO
WHA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CR 14 493

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL Q. MAI,

Defendant.

)
)
) **VIOLATIONS:** 18 U.S.C. § 1349 – Conspiracy to
) Commit Mail Fraud and Wire Fraud; 18 U.S.C.
) §§ 1957 and 2 – Engaging in Monetary Transactions
) in Property Derived from Specified Unlawful Activity
) and Aiding and Abetting; 18 U.S.C. § 981(a)(1)(C),
) 18 U.S.C. § 982(a)(1) & 28 U.S.C. § 2461(c) –
) Criminal Forfeiture
)
) SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1. The defendant, Michael Q. MAI, was an individual who resided in Orange County in the Central District of California.
2. Dearborne Circle, LLC (“Dearborne”), was owned and controlled at least in part by MAI, and MAI held himself out to be the President of Dearborne. Dearborne’s principal place of business was purported to be MAI’s residence in Orange County.
3. BPMB, Inc. (“BPMB”), was owned and controlled at least in part by MAI.
4. The co-conspirator C.K. was an individual who resided in the Northern District of California. C.K. was held out to be the “contracts manager” for Dearborne.

INDICTMENT

5. The co-conspirator Quin Rudin was an individual who resided in Southern California. Rudin held himself out as being associated with both Dearborne and Certus Solutions, Inc. (“Certus”).

6. Oracle America, Inc. (formerly known as Oracle USA, Inc.) (“Oracle”), was headquartered in San Mateo County in the Northern District of California. Oracle was a subsidiary of Oracle Corporation, which was also headquartered in San Mateo County. Oracle was in the business of providing database and applications software to businesses and organizations, among other products.

7. In addition to relying on its own employees to market its software, Oracle also relied on third-party re-sellers, or “Partners,” to do so. Upon meeting certain requirements, such Partners were allowed to sell customers licenses to use Oracle software.

8. The Pension Benefit Guaranty Corporation (“PBGC”) was an agency of the United States Government, with its principal offices located in Washington, D.C.

COUNT ONE: (18 U.S.C. § 1349 – Conspiracy to Commit Mail Fraud and Wire Fraud)

9. The factual allegations in paragraphs 1 through 8 are re-alleged and incorporated herein as if set forth in full.

10. Beginning on a date unknown to the Grand Jury, but by no later than in or about August 2009, and continuing until on or about October 31, 2009, both dates being approximate and inclusive, in the Northern District of California and elsewhere, the defendant,

MICHAEL Q. MAI,

did knowingly and willfully conspire and agree with Quin Rudin and C.K. to devise, participate in, and execute a material scheme and artifice to defraud, and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises, and by means of concealment of material facts, and, for the purpose of executing such scheme and artifice, did knowingly and intentionally cause certain matters and things to be delivered by the United States Postal Service and by private and commercial interstate carrier according to the direction thereon, in violation of Title 18, United States Code, Section 1341, and did knowingly and intentionally cause to be transmitted, in interstate commerce, by means of a wire communication, certain writings, signs, and signals, in violation of Title 18, United States Code, Section 1343.

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MANNER AND MEANS OF THE CONSPIRACY AND THE SCHEME TO DEFRAUD

11. In sum and substance, MAI, C.K., and Rudin agreed that they would fraudulently induce Oracle to permit Dearborne/Certus to re-sell Oracle software, licenses, and technical support services to the PBGC, and that they then would fail, decline, and refuse to pay Oracle for such software, licenses, and technical support services, even after Dearborne/Certus had received payment from the PBGC.

12. In furtherance of this agreement, on or about August 13, 2009, in the Northern District of California, C.K. found a solicitation posted by the PBGC on an Internet web site, which solicitation sought bids to sell Oracle database software to the PBGC. Thereafter, Dearborne was one of at least three entities that submitted such a bid to the PBGC. MAI submitted that bid on behalf of Dearborne over the Internet.

13. On or about August 28, 2009, the PBGC accepted Dearborne's bid to sell software, licenses, and technical support services for \$908,504.85, which was lower than the bids submitted by other entities. On or about the same day, a PBGC employee signed a purchase order to Dearborne in that amount. MAI also signed the purchase order as President of Dearborne.

14. Dearborne was not an authorized Oracle Partner or re-seller. However, Certus was part of the Oracle Partner Network. Accordingly, MAI and Rudin engaged in the following correspondence with Oracle employees, which was intended both to lead those employees to believe that Dearborne and Certus were one in the same and to induce Oracle to allow this Dearborne/Certus entity to conduct the PBGC transaction:

a. In an e-mail sent on or about August 28, 2009, MAI informed an Oracle employee in Virginia that Dearborne "has 100% percent [sic] ownership of Certus Solutions, Inc."

b. Rudin told an Oracle employee in Virginia in an e-mail sent on or about August 28, 2009, that Dearborne had acquired Certus "to offer Federal customers oracle tech/apps [sic] solutions." MAI and C.K. were copied on this e-mail.

c. On or about August 31, 2009, as part of the process of receiving credit approval from Oracle to allow Dearborne/Certus to conduct the PBGC transaction, MAI informed an Oracle employee in India by e-mail that Dearborne "acquired Certus Solutions Inc at the end of 2008." With this e-mail, MAI provided the Oracle credit employee with a consolidated profit

1 and loss statement and a consolidated balance sheet for Dearborne. These documents purported
2 to show that Dearborne had a net income for year-to-date 2009 of \$2.3 million and total equity of
3 \$8.4 million.

4 These representations regarding the ownership structure of Dearborne and Certus and regarding
5 Dearborne's financial condition were false, and they were material to Oracle's decisions as to whether to
6 allow Dearborne/Certus to conduct the PBGC transaction.

7 15. With the e-mail sent by Rudin on or about August 28, 2009, referenced above, Rudin
8 attached a completed Oracle Public Sector Partner Ordering Document proposing that Dearborne/Certus
9 would purchase Oracle software licenses and technical support rights to re-sell to the PBGC at a steeply
10 discounted price. This Ordering Document listed MAI as the Partner contact and C.K. as the Partner
11 contract administrator. The Ordering Document was purportedly executed by MAI. As alleged above,
12 MAI and C.K. were copied on this e-mail. At the time of this e-mail, neither MAI, nor C.K. and Rudin,
13 intended to pay Oracle any significant portion of this proposed price.

14 16. In connection with the PBGC transaction, on or about August 31, 2009,
15 Dearborne/Certus issued a purchase order to Oracle for the purchase of the software, licenses, and
16 technical support services. The purchase order reflected the final negotiated price of \$874,996.20.

17 17. On or about September 24, 2009, MAI caused an invoice to be sent by the United States
18 Postal Service or private or commercial interstate carrier, and by e-mail, to the PBGC in Washington,
19 D.C. The amount of the invoice was \$908,504.85.

20 18. The PBGC was thereafter provided with the database software and licenses that were the
21 subject of Dearborne's bid. The PBGC also received the right to the first year of Oracle technical
22 support services for those products. On or about October 8, 2009, the PBGC caused a United States
23 Treasury check in the amount of \$908,504.85 to be sent by the United States Postal Service or private or
24 commercial interstate carrier to MAI's home address in Orange County, California, which was also the
25 business address for Dearborne. This check represented the PBGC's payment for the Oracle software,
26 licenses, and technical support services.

27 19. On or about October 14, 2009, MAI deposited the \$908,504.85 check into a Bank of
28 America account held by MAI in the name of Dearborne and numbered ending -8095. MAI then took

1 the following actions, among other actions, with respect to the funds that he had received from the
2 PBGC:

3 a. initiated transfers by various means (including by direct transfer and cashier's
4 check) in the amounts of \$50,000, \$100,000, \$100,000, \$101,000, and \$100,000 into a Bank of
5 America account held in the names of MAI and the individual S.N. and numbered ending -0044
6 between on or about October 15, 2009, and on or about October 31, 2009;

7 b. obtained a cashier's check in the amount of \$80,000 made payable to "BPMP
8 INC" [sic] and deposited it into the Bank of America account held by MAI in the name of BPMB
9 and numbered ending -8265 ("-8265 Account") on or about October 26, 2009;

10 c. initiated transfers of \$27,000, \$2,000, and \$30,000 to BPMB's -8265 Account
11 between on or about October 20, 2009, and on or about October 31, 2009; and

12 d. obtained a cashier's check in the amount of \$105,000 on or about October 26,
13 2009, which check was provided to a company in the Northern District of California (identified
14 here as "N.E. Company") as a partial payment for the purchase of an American 9260 crane.

15 20. Ultimately, several hundred thousand dollars of the funds that MAI obtained from the
16 PBGC were transferred by MAI to an E-Trade account held in his name and numbered ending -0933.
17 MAI also provided thousands of dollars of the PBGC funds to C.K. in the Northern District of California
18 and to Rudin.

19 21. On or about October 21, 2009, Oracle invoiced Dearborne/Certus in the amount of
20 \$874,996.20, excluding taxes. Neither MAI, nor Rudin and C.K., ever paid any part of this invoiced
21 amount to Oracle.

22 All in violation of Title 18, United States Code, Section 1349.

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1 COUNT TWO: (18 U.S.C. §§ 1957 and 2 – Engaging in Monetary Transactions in Property
2 Derived from Specified Unlawful Activity and Aiding and Abetting)

3 22. The factual allegations in paragraphs 1 through 8 and 10 through 21, including those
4 related to the scheme to defraud described therein, are re-alleged and incorporated herein as if set forth
5 in full.

6 23. Among other financial transactions, on or about October 28, 2009, in the Northern
7 District of California and elsewhere, the defendant,

8 MICHAEL Q. MAI,

9 did knowingly engage and attempt to engage in a monetary transaction by and through a financial
10 institution, in and affecting interstate commerce, in criminally derived property of a value greater than
11 \$10,000, that is, the provision of a cashier's check in the amount of \$105,000 to the company identified
12 here by its initials, N.E. Company, which check was deposited into N.E. Company's Citibank account
13 domiciled in San Francisco, California, such funds having been derived from a specified unlawful
14 activity, that is, wire fraud, mail fraud, and conspiracy to commit mail fraud and wire fraud.

15 All in violation of Title 18, United States Code, Sections 1957 and 2.

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1 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 982(a)(1) & 28 U.S.C.
 2 § 2461(c) – Criminal Forfeiture)

3 24. All of the allegations contained in this Indictment are re-alleged and by this reference
 4 fully incorporated herein for the purpose of alleging forfeiture pursuant to the provisions of 18 U.S.C.
 5 § 981(a)(1)(C), 18 U.S.C. § 982(a)(1), and 28 U.S.C. § 2461(c).

6 25. Upon a conviction for the offense alleged in Count One, the defendant,
 7 MICHAEL Q. MAI,
 8 shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) all
 9 property constituting, and derived from, proceeds the defendant obtained directly and indirectly, as the
 10 result of those violations, including, but not limited to, the following real property or personal property:

- 11 a. the funds in the E-Trade account held in the name of Michael MAI, numbered
 12 ending -0933;
- 13 b. American 9260 crane;
- 14 c. the funds in the Bank of America account held in the name of Dearborne Circle,
 15 LLC, numbered ending -8095;
- 16 d. the funds in the Bank of America account held in the names of Michael MAI and
 17 S.N., numbered ending -0044; and
- 18 e. the funds in the Bank of America account held in the name of BPMB, Inc.,
 19 numbered ending -8265.

20 26. Upon conviction of any of the offenses alleged in Count Two, the defendant,
 21 MICHAEL Q. MAI,
 22 shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(1), any property, real and personal,
 23 involved in the money laundering violation alleged in Count Two.

24 27. If any of the aforementioned property, as a result of any act or omission of the
 25 defendant –

- 26 a. cannot be located upon the exercise of due diligence;
- 27 b. has been transferred or sold to, or deposited with, a third person;
- 28 c. has been placed beyond the jurisdiction of the Court;

1 d. has been substantially diminished in value; or
2 e. has been commingled with other property that cannot be divided without difficulty;
3 any and all interest the defendant has in other property shall be vested in the United States and
4 forfeited to the United States pursuant to 21 U.S.C. § 853p, as incorporated by 18 U.S.C. § 982(b)(1)
5 and 28 U.S.C. § 2461(c).

6 All in violation of Title 18, United States Code, Section 981(a)(1)(C), Title 18, United States
7 Code, Section 982(a)(1), Title 28, United States Code, Section 2461(c), and Rule 32.2 of the Federal
8 Rules of Criminal Procedure.

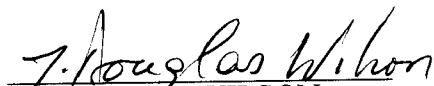
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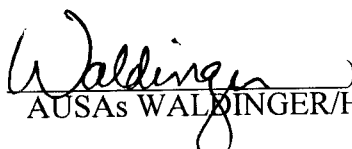
11 9/23/14

A TRUE BILL.

12 
13 FOREPERSON

14 MELINDA HAAG
15 United States Attorney

16 
17 J. DOUGLAS WILSON
18 Chief, Criminal Division

19 (Approved as to form: )

AUSAs WALDINGER/HOFFMAN